

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:20-cv-627-RJC**

<b>CALVIN LATIMER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>SOCIAL SECURITY ADMINISTRATION,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**THIS MATTER** is before the Court on *pro se* Plaintiff's Complaint, (Doc. No. 1). An Application to Proceed in District Court Without Prepaying Fees or Costs, (Doc. No. 2), is also pending.

In this matter, Plaintiff alleges that the Social Security Administration is improperly collecting an overpayment of retirement benefits.<sup>1</sup>

Proper venue under the Social Security Act is "in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business...." 42 U.S.C. § 405(g). When a plaintiff files a case laying venue in the wrong division or district, the district "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). Transfer for lack of venue can be considered *sua sponte*. See Feller v. Brock, 802 F.2d 722, 729 n.7 (4<sup>th</sup> Cir. 1986).

Plaintiff resides in Port Richey, Florida, which lies in Pasco County in the Middle District of Florida. It appears that venue does not lie in this District. Because it appears that this action should have been brought in the Middle District of Florida where the Plaintiff resides, this action

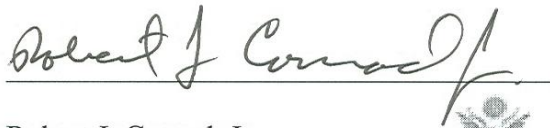
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<sup>1</sup> It is unclear whether Plaintiff exhausted his administrative remedies with regards to the overpayment determination and, if so, whether this action is timely.

will be transferred to the Middle District pursuant to 28 U.S.C. § 1406(a). Plaintiff may file a Notice objecting to the transfer within fourteen (14) days of this Order. See Feller, 802 F.2d at 729 n.7 (requiring notice when venue is raised *sua sponte*). The failure to object will result in this case's transfer to the Middle District of Florida without further notice.

**IT IS, THEREFORE, ORDERED** that Plaintiff may file a Notice within **fourteen (14) days** of this order objecting to the transfer of this action to the Middle District of Florida. If no Response is filed, this action will be transferred without further notice.

Signed: November 20, 2020

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

